UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,207	09/25/2003	Aswin Chandramouleeswaran	200312616-1	2153

22879   7590   05/03/2007
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
TRAN, VINCENT HUY

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
05/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/669,207	CHANDRAMOULEESWARAN ET AL.
	Examiner	**Art Unit**	
	Vincent T. Tran	2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*30 January 2007*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *8-15* is/are allowed.

6)☒ Claim(s) *1-4, 6-7, 16-21* is/are rejected.

7)☒ Claim(s) *5 and 22* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is responsive to the communication filed on 9/6/06

2.   Claims 1-22 are pending for examination.

3.   The text of those sections of Title 35, U.S. code not included in this action can be found

in a prior Office action.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

5.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

6.   As per claims 1, 16, 19, the claimed invention is directed to non-statutory subject matter.

Although it resolves the software, data structure, per se, deficiency of claim 1, 16, and 19

by claiming a physical article or object, and it resolves the issue of whether the instructions are

executable by claiming the program as executable code. However, the claim does not result in a

physical transformation nor does it appear to provide a useful, concrete and tangible result. As

such, the data does not impact functionality to either the data as claimed or to the computer.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9.   Claims 1, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz.

10.   As per claim 16, Pomerantz teaches a method for implementing user-defined tunables in a operating system, comprising:

initializing a kctune command;

[*inherent – since a kernel module is writing in a C environment [page 2], it is well know in a art that a command is required to open a text editor where the user can either create, edit, or view a kernel module*]

selecting a –u flag to initiate creation of a user-defined tunable;

[*Makefile paragraph 1.1 or Crt+N for other text editor*]

describing the user defined tunable [*source code* **chardev.c** *in chapter 5*]

using an expression, relating the user-defined tunable to one or more kernel tunables, wherein each of the kernel tunable are created by a developer

[user define kernel tunable (**chardev.c**)

using an expression (ret_val = ioctl(file_desc, IOCTL_SET_MSG, message; where

message = 100), relating the user-defined tunable to one or more kernel tunables (**ioctl.c**

– chapter 5), wherein each of the kernel tunables are created by a developer

(linux/modules.h – library)]

wherein the user-defined tunable is created by a system administrator [user-define

tunable is created by anyone who want to create his or her own kernel module which obviously

included system administrator – page 2] and is a component of kernel module stored in kernel

module stored in a computer readable medium [inherent].

11.   As per claim 17, Pomerantz teaches modifying a value of user defined tunable, wherein

values of the one or more related kernel tunables are changed [inherent since by modified the

value of message, the related kernel is change].

12.   As per claim 18, well know as disclose by Admitted of Prior Art [paragraph 004].

13.   As per claim 19-20, the combine teachings of Pomerantz teaches the method for

implementing user-defined tunable. Therefore, Pomerantz teaches the computer readable

medium having code to implement the user-defined tunable to perform the claimed method.

14.   As per claim 1, see discussion in claim 16 and 17.

15.   As per claim 2, Pomerantz inherently teach the user defined tunable is applied to an

operating system.

16.   Claims 3, 6, 21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Pomerantz as applied to claim 1 above, and further in view of Fiamingo.

17.   As per claim 3, Fiamingo disclose the expression relating the user defined tunable to the

one or more kernel tunables is of the form of an arithmetic expression involving integers and

other tunable names [table 2 p. 7; line 1 of p. 7 set module:variable = value].

18.   As per claim 6, Fiamingo disclose the assigned value and the expression use C

programming syntax [table 2 p. 7 – 10+16*maxusers] , and where in the assigned value may in

one of decimal, octal, or hexadecimal format [10 and 16 are decimal format].

19.   As per claim 21, the system of Fiamingo teaches an expressions that relate one or more

kernel tunables to the user-defined tunables. Therefore, inherently, the combine teachings teach

the user defined tunable does not control any kernel resource directly.

20.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz as

applied to claim 1 above, and further in view of Shearer, Jr. et al. U.S. 6,272,519.

21.   As per claim 7, Pomerantz does not teach expressly that the user defined tunable may be

deleted.

       Shearer, Jr. et al. teach another method for enabling the altering or replacing of the kernel

tuning parameters. Specifically, Shearer, Jr. et al. teach the user defined tunable may be deleted

[col. 9 lines 20-25]. Therefore, it would have been obvious to one of ordinary skill in the art to

have modified the system of Compaq/Pomerantz with the delete command of Shearer, Jr. et al.

since the delete command is well know in the art of software.

Allowable Subject Matter

22.   Claims 8-15 are allowed.

23.   Claim 5, 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

24.   Claim 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent T. Tran whose telephone number is (571) 272-7210. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas c. Lee can be reached on (57 1)272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vincent Tran

CHUN CAO
PRIMARY EXAMINER